

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF DENTISTRY

In the Matter of John A. Petty, D.D.S.,  
License No. D11708

FINDINGS OF FACT,  
CONCLUSIONS,  
AND RECOMMENDATION

This matter came on for a Prehearing Conference before Administrative Law Judge Beverly Jones Heydinger on January 27, 2009, at 1:30 p.m., at the Office of Administrative Hearings. Angelina M. Barnes, Assistant Attorney General, 445 Minnesota Street, Suite 1400, St. Paul, Minnesota 55101, appeared for the Board of Dentistry, Complaint Committee. John A. Petty ("Respondent") did not appear in person or by counsel. The record closed on the date of the Prehearing Conference.

**STATEMENT OF ISSUES**

1. Did the Respondent engage in conduct unbecoming a person licensed to practice dentistry and/or conduct contrary to the best interest of the public, specifically:

- a. Gross ignorance or incompetence in the practice of dentistry and/or repeated performance of dental treatment which falls below accepted standards, in violation of Minn. Stat. § 150A.08, subd. 1 (6) and (13), and Minn. R. 3100.6200 B;
- b. Failing to cooperate with the Board, its agents, or those working on behalf of the Board, in violation of Minn. Stat. § 150A.08, subd. 1 (6) and (13), and Minn R. 3100.6200 J and 3100.6350.

2. Did the Respondent fail or refuse to attend, testify, or produce records as directed by the Board, in violation of Minn. Stat. § 150A.08, subd. 1 (12)?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

**FINDINGS OF FACT**

1. On November 12, 2008, the Notice of and Order for Prehearing Conference and Hearing in this matter was served by first class mail upon John A. Petty, D.D.S., at two addresses: 11256 Deer Ridge Lane, Minnetonka, MN 55343, and 8637 Saratoga Lane, Eden Prairie, MN 55347, the last known addresses on file with the Board. It notified the Respondent of the Prehearing Conference scheduled for January 27, 2009. Neither of the Notices was returned to the Board as undeliverable.

2. On December 11, 2008, the Administrative Law Judge sent a letter to the Respondent at both addresses, providing supplemental information. Neither letter was returned as undeliverable.

3. On January 27, 2009, the Respondent failed to appear at the Prehearing Conference, or to notify the Board or the Administrative Law Judge that he was unable to appear.

4. The Notice of and Order for Prehearing Conference and Hearing informed Respondent that if he failed to appear at the Prehearing Conference the allegations against him, set forth in the Notice of and Order for Prehearing Conference and Hearing, could be taken as true, and a default order could be issued. He was informed that such an order could result in disciplinary action, including loss of his license.

5. Because the Respondent failed to appear, he is in default.

6. Pursuant to Minn. Rules part 1400.6000, the allegations contained in the Notice of and Order for Prehearing Conference and Hearing are taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

## **CONCLUSIONS**

1. The Board of Dentistry and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50 and § 150A.08 (2008).

2. The Board has given proper notice of the hearing in this matter and has fulfilled all relevant substantive and procedural requirements of law and rule.

3. The facts set out in the Notice of and Order for Prehearing conference and Hearing constitute violations of Minn. Stat. § 150A.08 and the rules cited. The statute provides that disciplinary action may be taken for the following reasons:

a. The Respondent engaged in conduct unbecoming a person licensed to practice dentistry and/or conduct contrary to the best interest of the public, specifically:

1. Gross ignorance or incompetence in the practice of dentistry and/or repeated performance of dental treatment which falls below accepted standards, in violation of Minn. Stat. § 150A.08, subd. 1 (6) and (13), and Minn. R. 3100.6200 B;
2. Failing to cooperate with the Board, its agents, or those working on behalf of the Board, in violation of Minn. Stat. § 150A.08, subd. 1 (6) and (13), and Minn R. 3100.6200 J and 3100.6350;

b. The Respondent failed or refused to attend, testify, or produce records as directed by the Board, in violation of Minn. Stat. § 150A.08, subd. 1 (12).

4. Respondent's conduct constitutes grounds for the Board to take disciplinary action against him.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RECOMMENDED: that the Board take disciplinary action against John A. Petty, D.D.S.

Dated this 2nd day of February, 2009.

s/Beverly Jones Heydinger

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BEVERLY JONES HEYDINGER  
Administrative Law Judge

Reported: Default

### **NOTICE**

This report is a recommendation, not a final decision. The Minnesota Board of Dentistry will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minn. Stat. § 14.61 (2008), the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Minnesota Board of Dentistry at 2829 University Avenue SE, Suite 450, Minneapolis, MN 55414, Attn. Marshall Shragg, Executive Director, or by

telephone at (612) 617-2250 to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. In order to comply with this statute, the Commissioner must then return the record to the Administrative Law Judge within 10 working days to allow the Judge to determine the discipline to be imposed. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1 (2008), the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

### **MEMORANDUM**

The Respondent did not appear at the prehearing conference to refute the allegations against him, nor did he contact the Board or the Administrative Law Judge to ask for a continuance of this matter. The facts alleged by the Board are taken as true. Absent any evidence to the contrary, the facts reasonably support the conclusions

**B.J.H.**